

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

UNILOC USA, INC., and	§	
UNILOC LUXEMBOURG, S.A.,	§	
	§	Civil Action No. 6:16-cv-223
	§	
Plaintiffs,	§	
	§	PATENT CASE
v.	§	
	§	
FACEBOOK, INC.,	§	
	§	JURY TRIAL DEMANDED
Defendant.	§	
	§	

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs, Uniloc USA, Inc., and Uniloc Luxembourg, S.A. (together “Uniloc”), as and for their complaint against defendant, Facebook, Inc. (“Facebook”), allege as follows:

THE PARTIES

1. Uniloc USA, Inc. (“Uniloc USA”) is a Texas corporation having a principal place of business at Legacy Town Center I, Suite 380, 7160 Dallas Parkway, Plano Texas 75024. Uniloc also maintains a placed of business at 102 N. College, Suite 603, Tyler, Texas 75702.

2. Uniloc Luxembourg S.A. (“Uniloc Luxembourg”) is a Luxembourg public limited liability company having a principal place of business at 15, Rue Edward Steichen, 4th Floor, L-2540, Luxembourg (R.C.S. Luxembourg B159161).

3. Uniloc Luxembourg owns a number of patents in the field of unified telecommunications. Uniloc’s technologies enable unified telecommunication clients to establish and use collaborative VoIP text, media, audio and video communication solutions.

Uniloc's technologies are used in several markets, including unified communications and business VoIP telephony.

4. Upon information and belief, Facebook is a Delaware corporation having a principal place of business at 1601 Willow Road, Menlo Park, California 94025 and does business at offices in Austin, Dallas and Fort Worth (including a data center), Texas and in the judicial Eastern District of Texas. Facebook may be served with process through its registered agent, the Corporation Service Company d/b/a CSC-Lawyers Inc., 211 E. 7th St., Suite 620, Austin, Texas 78701.

JURISDICTION AND VENUE

5. Uniloc brings this action for patent infringement under the patent laws of the United States, 35 U.S.C. § 271 *et seq.* This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338(a) and 1367.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(c) and 1400(b). Upon information and belief, Facebook is deemed to reside in this judicial district, has committed acts of infringement in this judicial district, has purposely sought and transacted business involving the accused products/services in this judicial district and/or has a regular and established place of business in this judicial district.

7. Facebook is subject to this Court's jurisdiction pursuant to due process and/or the Texas Long Arm Statute due at least to its substantial business in this State and judicial district, including: (A) at least part of their past infringing activities, and (B) regularly doing or soliciting business, engaging in persistent conduct and/or deriving substantial revenue from goods and services provided to customers in Texas and maintaining regular and established places of business in Austin, Dallas and Fort Worth, Texas.

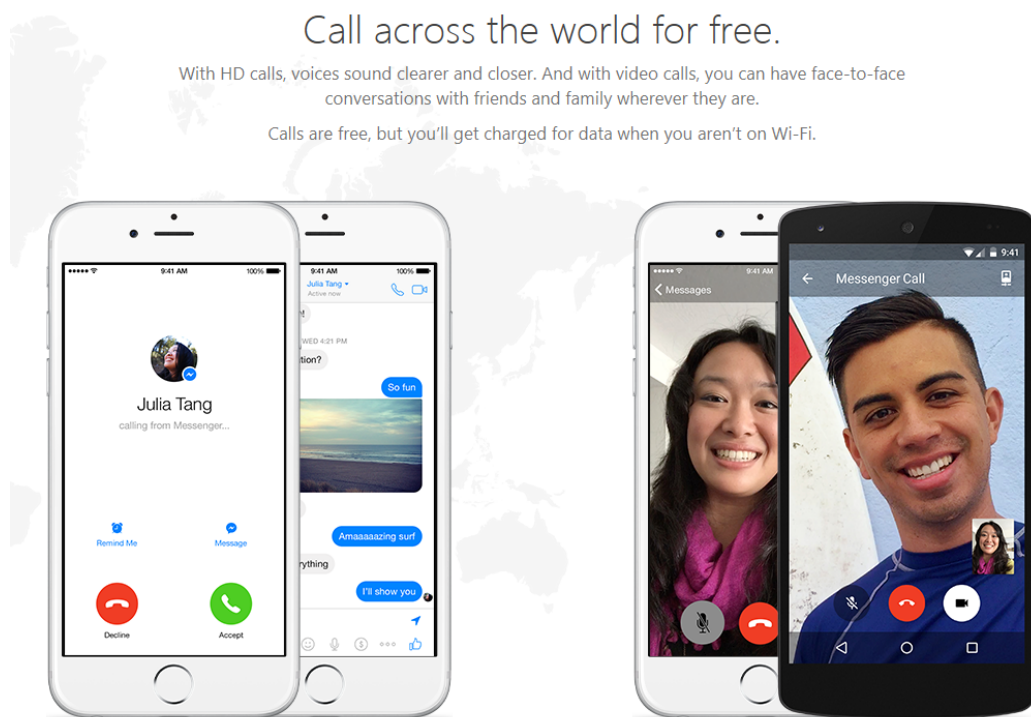
COUNT I
(INFRINGEMENT OF U.S. PATENT NO. 8,571,194)

8. Uniloc incorporates paragraphs 1-7 above by reference.

9. Uniloc Luxembourg is the owner, by assignment, of U.S. Patent No. 8,571,194 (“the ‘194 Patent”), entitled SYSTEM AND METHOD FOR INITIATING A CONFERENCE CALL that issued on October 29, 2013. A true and correct copy of the ‘194 Patent is attached as Exhibit A hereto.

10. Uniloc USA is the exclusive licensee of the ‘194 Patent with ownership of all substantial rights therein, including the right to grant sublicenses, to exclude others, and to enforce, sue and recover past damages for the infringement thereof.


11. Upon information and belief, the following describes, at least in part, Facebook’s Messenger software:




12. Upon information and belief, the following describes, at least in part, Facebook's Messenger software:

How do I call someone from Messenger?

To make a voice call from Messenger:

1. Open a conversation with a friend.
2. Tap . If the icon is gray, you can't currently call this person.

To make a video call from Messenger:





1. Open a conversation with a friend.
2. Tap . If the icon is gray, you can't currently video call this person.

Once you've started a voice call, you can make it a video call by tapping . If your friend isn't currently able to receive a video call, the camera icon will be gray.

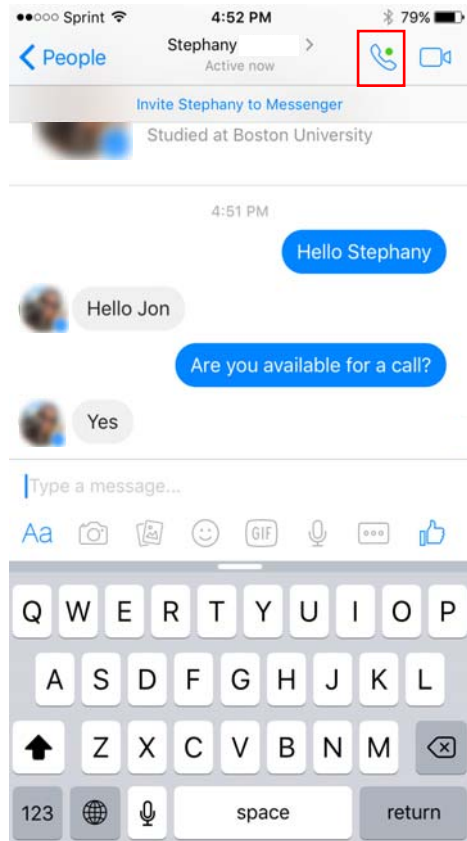
13. Upon information and belief, the following describes, at least in part, Facebook's Messenger software functionality:

How do I know if a friend has seen a message I sent?

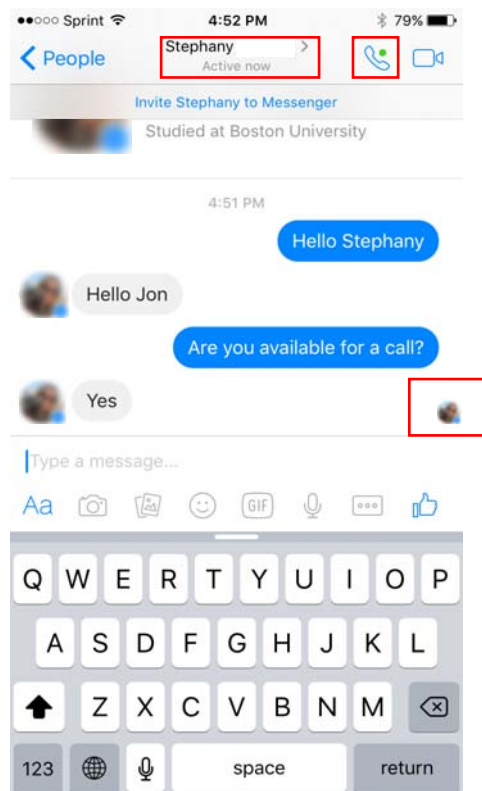
Messenger uses different icons to let you know when your messages have been sent, delivered and read:

-  : A blue circle means your message is sending
-  : A blue circle with a check means your message has been sent
-  : A filled-in blue circle with a check means your message has been delivered
-  : A small version of your friend or contact's photo will pop up below the message when they've read it

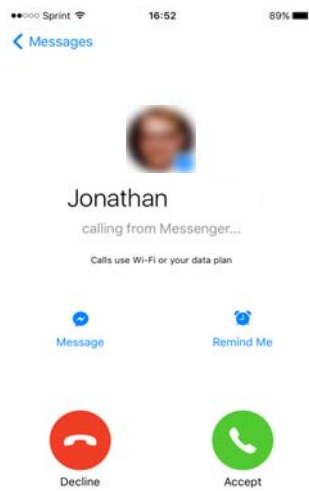
14. Upon information and belief, the following describes, at least in part, Facebook's Messenger software functionality:



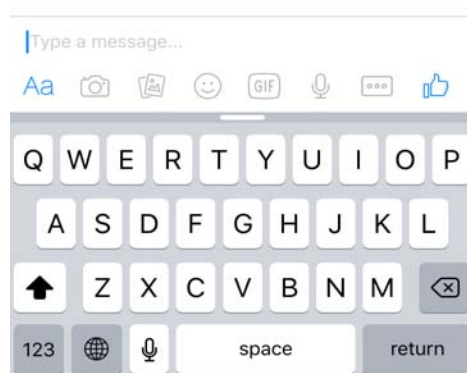
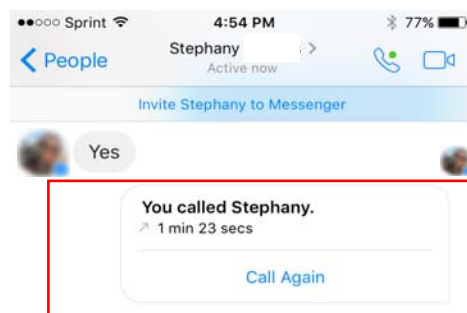
15. Upon information and belief, the following describes, at least in part, Facebook's Messenger software functionality:



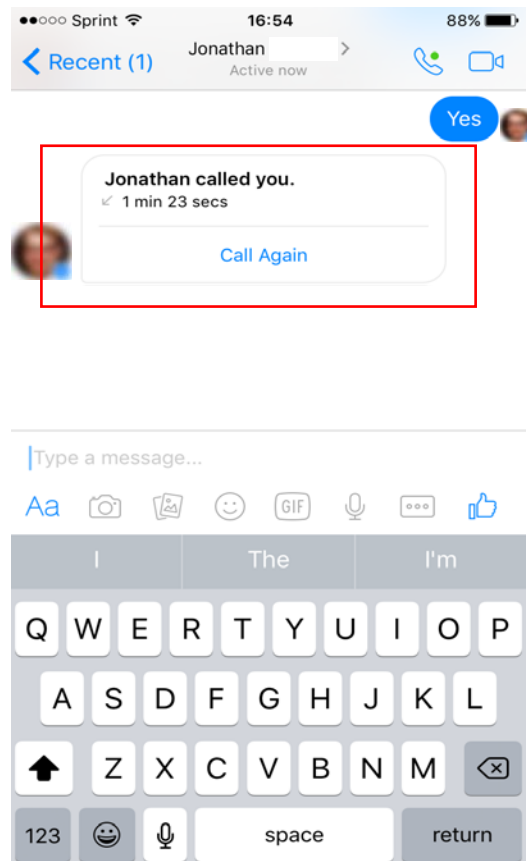
16. Upon information and belief, the following describes, at least in part, Facebook's Messenger software functionality:



17. Upon information and belief, the following describes, at least in part, Facebook's Messenger software functionality:



18. Upon information and belief, the following describes, at least in part, Facebook's Messenger software functionality:



19. Facebook has directly infringed one or more claims of the '194 Patent in this judicial district and elsewhere in Texas, including at least claims 1, 3, 4 and 5, either literally or under the doctrine of equivalents, by or through making, using, importing, offering for sale and/or selling software that implements messaging/voice call technology including, without limitation, its Messenger software.

20. Facebook may have infringed the '194 Patent through other software utilizing the same or reasonably similar functionality as above, including other versions of Facebook's Messenger software. Uniloc reserves the right to discover and pursue all such additional

infringing software. For the avoidance of doubt, the Facebook Messenger software is identified for exemplary purposes and in no way limits the discovery and infringement allegations against Facebook concerning other software that incorporates the same or reasonably similar messaging/voice call functionality.

21. In addition, should Facebook's Messenger software be found to not literally infringe the asserted claims of the '194 Patent, Facebook's Messenger software would nevertheless infringe the asserted claims of the '194 Patent. More specifically, the Facebook Messenger software performs substantially the same function (contains instructions for implementing an instant message to voice call capability), in substantially the same way (comprising computer readable instructions contained or loaded into non-transitory memory), to yield substantially the same result (effecting an instant message to voice conference call). Facebook would thus be liable for direct infringement under the doctrine of equivalents.

22. Facebook has indirectly infringed and continues to indirectly infringe at least claims 1, 3, 4 and 5 of the '194 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the using, offering for sale selling, and/or importation of at least Facebook's Messenger software. Facebook's customers who use such software in accordance with Facebook's instructions directly infringe one or more of the above identified claims of the '194 Patent in violation of 35 U.S.C § 271.

23. Facebook instructs its customers in the use of its Messenger software through the Internet, demonstrations, training videos, brochures and administration, maintenance, installation and/or user guides, such as those located at the following:

<https://www.messenger.com>

<https://www.facebook.com/help/messenger>

<https://www.facebook.com/help/community/question>

Facebook is thereby liable for infringement of the '194 Patent pursuant to 35 U.S.C § 271(b).

24. Facebook has indirectly infringed and continues to indirectly infringe at least claims 1, 3, 4 and 5 of the '194 Patent, by among other things, contributing to the direct infringement by others, including without limitation users of its Messenger software, by making, using, offering to sell, or selling, in the United States, and/or importing a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patent process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in infringement of the '194 Patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

25. For example, the Facebook Messenger software module that allows users to initiate a call from an instant message window is a component of a patented machine, manufacture, or combination, or an apparatus for use in practicing a patented process. Furthermore, such software module is a material part of the invention and upon information and belief is not a staple article or commodity of commerce suitable for substantial non-infringing use. Thus, Facebook is liable for infringement pursuant to 35 U.S.C § 271(c).

25. Facebook will have been on notice of the '194 Patent since, at the latest, the service of this complaint. By the time of trial, Facebook will thus have known and intended (since receiving such notice), that its continued actions would actively induce and contribute to actual infringement of at least Claims 1, 3, 4 and 5 of the '194 Patent.

26. Facebook has infringed the '194 Patent as set forth above in the United States during the pendency of the patent.

27. Uniloc has been damaged, reparably and irreparably, by Facebook's infringement of the '194 Patent and such damage will continue unless and until Facebook is enjoined.

PRAYER FOR RELIEF

Uniloc requests that the Court enter judgment against Facebook as follows:

- (A) that Facebook has infringed the '194 Patent;
- (B) awarding Uniloc its damages suffered as a result of Facebook's infringement of the '194 Patent;
- (C) enjoining Facebook, its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries and parents, and all others acting in concert or privity with it from infringing the '194 Patent;
- (D) awarding Uniloc its costs, attorneys' fees, expenses and interest, and
- (E) granting Uniloc such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Uniloc hereby demands trial by jury on all issues so triable pursuant to Fed. R. Civ. P. 38.

Dated: March 18, 2016

Respectfully submitted,

/s/ Craig Tadlock

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